

**UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW JERSEY**

SAUL HANDELSMAN,	:	
Plaintiff,	:	
v.	:	
	:	Civil Action No. 08-675 (SRC)
MICHAEL J. ASTRUE, COMMISSIONER OF SOCIAL SECURITY,	:	
	:	<b>ORDER</b>
Defendant.	:	
	:	

This matter comes before the Court on the appeal by Plaintiff Saul Handelsman of the final decision of the Commissioner of Social Security (“Commissioner”) determining that Plaintiff is not eligible for Supplemental Security Disability Insurance benefits under the Social Security Act. Plaintiff and Defendant have both filed briefs regarding the appeal. Plaintiff’s brief, however, is directed to a prior appeal and does not permit fair adjudication without supplemental briefing.

This is the second appeal that Plaintiff has filed regarding Defendant’s decisions regarding his application for Social Security benefits. In 2004, Plaintiff, through his attorney, Gregg M. Hobbie, filed in this district (Civil Action No. 04-5029) an appeal of the August 16, 2004 decision of the Administrative Law Judge (“ALJ”). On March 24, 2005, Plaintiff’s attorney filed a brief in support of that appeal. That case was resolved on June 29, 2005 with a consent order of remand. On remand, a new hearing was held before a different ALJ, who issued

a new decision on June 8, 2006; Plaintiff, again with Mr. Hobbie as his attorney, filed the present appeal of the decision, as well as a brief in support.

With the exception of two introductory paragraphs, the brief filed in support of the present appeal is word-for-word identical to the brief filed in support of the previous appeal. Twenty-three pages from the 2004 appeal appear to have been cut and pasted into the brief for the present appeal. Mr. Hobbie had thus filed an appeal of the 2006 ALJ decision using a brief written about the 2004 ALJ decision. With the exception of the two new introductory paragraphs, the present brief directs all discussion and argument to the 2004 decision, which is not the subject of this appeal. With the exception of one of the new introductory paragraphs, the present brief does not even reference the 2006 decision that is the subject of the appeal. This Court cannot give due consideration to an appeal of an ALJ's decision when Plaintiff's brief is directed at the wrong ALJ decision.

Plaintiff must file a supplemental brief directed to the 2006 decision. Defendant may, at his option, rest on his current brief or submit a new brief in opposition.

For these reasons,

**IT IS ON THIS** 6th DAY OF October, 2008

**ORDERED** that the parties will submit supplemental briefs regarding this appeal. Plaintiff's brief in support is due November 7, 2008; Defendant's opposition is due December 8, 2008; and Plaintiff's reply is due December 22, 2008.

s/ Stanley R. Chesler  
STANLEY R. CHESLER, U.S.D.J.